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Sent: 1/24/2018 9:05:52 AM
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Subject: [External] Request and Rationale for Three 401 Public Hearings in ACP Impacted Counties
Attachments: Letter to NC DEQ and Governor Cooper.pdf

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January 24, 2018

Governor Roy Cooper
Secretary Michael S. Regan
Assistant Secretary Sheila Holman
Director Linda Culpepper
Deputy Secretary John Nicholson
Information Office Bridget Munger

Public

Dear Officers of the NC Department of Environmental Quality and Governor Cooper:

Your Department has done an election job in asking for additional information on a monthly basis from the Atlantic Coast Pipeline on various aspects of the application. In spite of your requests, there are many unanswered questions of a legal nature that relate directly to water quality, soil quality, and actually, air quality as well.

Here's a list of seven major questions and concerns that have not been answered and addressed fully by the ACP:

<!--[if !supportLists]-->• <!--[endif]-->**Use of Gas for Gas-Powered Plants:** The ACP has avoided providing details of how, where, and for what purpose will they will use the 80% + gas that they have reserved for themselves. The key question related directly to water quality is: "What percentage will be used to supply newly-constructed gas plants along the pipeline route?" They have failed to answer this question for several reasons. Gas plants are a significant danger to agriculture, drinking water, soil contamination, and air quality. If they had even announced intentions to build even one gas-powered plant, all these considerations would come into play, including water, soil, and air quality regulations. Duke and Dominion know this and are treating our regulatory agency's and the public with disrespect at the very least and disdain and dishonesty at the most. Compared to Compressor Stations and M&R Stations, gas-powered plants are 100 times the risk to water, air, and soil and the entire agricultural industry of Eastern NC.

<!--[if !supportLists]-->• <!--[endif]-->**Use of Gas for Existing Power Generation:** The ACP has also failed to provide details on what percentage of the gas reserved for themselves will be used to provide gas to existing coal or gas-powered facilities now in operation. Secondly, where specifically will it be used? There are reasons that Duke Energy has not disclosed these details. I will provide evidence of just one at this time: the Duke Energy Smith Center in Hamlet. What percentage of the ACP gas will fuel the Hamlet gas-powered plant that now is fueled by gas from Transco? Is it 10% or 20% of the ACP gas? More? For reasons unexplored, Duke and Dominion have segmented the pipeline from Pembroke to Hamlet out of the official ACP. Why have they done this, considering it's the same gas and actually the "same" pipeline, linking at the existing compressor station in Pembroke. The proposed M&R station will also serve the gas all the way to Hamlet. This is a major legal question that needs to be answered now. Did they do this because, once the pipeline to Hamlet leaves Pembroke, it crosses the Lumber River that is protected by its Federal and State, Natural and Scenic River Designation that comes with NEPA regulations that have been quietly ignored? Is it because they don't want to draw attention to the amount of gas from the ACP that will be used to fully fuel the Hamlet facility and the entire pipeline from Charlotte to Wilmington, totally replacing the use of Transco gas along this complete former Piedmont Pipeline – both East and West? Will changes need to be made to the existing Compressor Station that will require permitting? We just don't know these answers and they must be known now, not later.

Note: We received Federal and State designations for the river after an 8-year struggle to protect it from a multi-state toxic waste plant proposal in the 1980's and 1990's. I was a leader in that successful effort along with many others over these last forty years.

<!--[if !supportLists]-->• <!--[endif]-->**Pembroke Compressor Station and Future Development:** The gas leak at the existing Compressor Station in Pembroke on 11/21/17 was the 10th worst gas leak in the U.S. since 2010. Dr. Ryan Emanuel, NCSU, recently completed a study of this major leak in Pembroke that was inaccurately reported and downplayed by Duke Energy. I reported it to the ROBESONIAN one while one short article documented its occurrence, it received no widespread further coverage. There are legal questions regarding the existing compressor station and this massive leak. Additionally, In its admission of intentions to take the ACP into South Carolina, a Dominion official acknowledged that doing so would need additional infrastructure in North Carolina. Where would that be? Pembroke is the alleged terminus, although in reality, it is Hamlet (see above information).

<http://pulse.ncpolicywatch.org/2017/11/22/natural-gas-leak-robeson-county-compressor-station-adds-anxiety-atlantic-coast-pipeline/>

<http://www.robsonian.com/news/104964/gas-leak-makes-noise-in-prospect>

<!--[if !supportLists]-->• <!--[endif]-->**Location of Proposed M&R Station in Robeson County –** Unlike the proposed M&R stations in Cumberland and Johnston County, the proposed Pembroke Station would be constructed at the same site as the existing Compressor Station that is utilized along Duke's Charlotte – Wilmington pipeline. This site is in the middle of a well-populated Native American community, unlike the two proposed site locations in the other two counties. A lawsuit in Robeson County has been filed in Robeson County against the ACP and the Board of Commissioners for not following regulatory procedures in relation to the holding and granting of the Conditional Use Permit for this proposed M&R station. With the combination of the existing compressor station and a new M&R Station, this site will become one of the most high-risk and dangerous sites along the entire 600-mile route of the entire pipeline. Local elected officials and tribal organizations have met with Duke Energy and monetary benefit through future corporate giving and presence has been a part of these discussions. DEQ staff need to visit and compare these three

proposed locations for M&R stations and research population densities within both the blast and evacuation zones and compare them. All of this information can be collected locally and presented at the proposed public hearings. Such infrastructure build-up in Pembroke will have major impact on water quality, including the swamp very close to the proposed site that feeds into the Lumber River.

<!--[if !supportLists]-->• <!--[endif]--> **Location and Use of Taps in three Impacted Counties and the five remaining Counties:** The ACP has failed to provide details of the locations of all the taps along the proposed route, their use, and the percentage of gas that will feed each tap, including the percentage of gas for ACP's own use at each tap and what will be used for local use (i.e. economic development). This information is directly related to water quality in said areas within each county and their location to rivers and streams. Even where taps are identified, such as two in Robeson County, there are no details regarding what these taps will be used for and how much of the ACP gas will be accessed there. This is very important because Robeson County has 50 swamps, most of which flow directly into each other and into the Lumber River that is highly protected with Federal and State designation (see above). The questions and details are not issues that cause the NC DEQ to move outside its legal and permitting boundaries. These questions and issues are directly related to water quality and protection, as well as those of soil and air quality. Again, out of all the fossil fuels, methane gas is the most dangerous fossil fuel to mix with agricultural industries, the heart of Eastern NC's economy and livelihood.

<!--[if !supportLists]-->• <!--[endif]--> **The LaPlaca/APPPL Report released Yesterday –** The report released yesterday, entitled "The Failure of the ACP to Demonstrate Economic Development Benefit" was compiled by Nancy LaPlaca, a national energy consultant who lives in Boone, NC. This report documents the majority of unanswered questions that the ACP has not provided your Department of Environmental Quality. While all of the above issues are identified in the report, there are many, many more. The only way that your Department will receive the needed and necessary details that you need to make an informed decision on the 401 Water Quality Permit Application is to hold Public Hearings and receive testimony from both landowners and experts that have been living with these unanswered questions from the ACP for three years. The LaPlaca/APPPL report provides the evidence needed, by an external and reliable source, for holding these three hearings in the counties identified as most impacted by your Department.

<!--[if !supportLists]-->• <!--[endif]--> **Dominion and Duke Energy Plans to Extend the ACP to South Carolina and connect to additional pipelines for exportation of methane gas overseas:**

Dominion has finally admitted, after misrepresenting and denying it, that it has plans to extend the ACP into South Carolina. Corporate power point presentations released reveal maps that place the ACP in line to connect to existing pipelines in South Carolina for exportation through the Elba Island International Terminal under construction in GA. These plans directly conflict with what has been proposed by the ACP in relation to its scope and scale that is based on Pembroke, NC as its final terminus. The LaPlaca report raises the question of whether or not this admission and the need for additional infrastructure in North Carolina changes the scope and scale of the proposal enough to require it to be denied with re-application that includes the true and complete infrastructure needs. This would require a new and expanded assessment of the pipeline's impact on water quality along the entire, newly proposed route. The report also raises the question of the legal implications of Dominion's denial of this pre-existing plan and the allegation of fraudulent misrepresentation of the pipeline over all these previous years.

Conclusion

In this letter, I have listed just seven major reasons why our communities and the public of North Carolina need the NC Department of Environmental Quality to continue to request additional information from the ACP. You, and we in Eastern NC, need at least one more "round" prior to the May deadline, of questions that are clearly and concisely related to the protection of water quality as those listed above. Please do not lose sight of the potential data and facts that can only be accessed when you talk to local people who know the land and its resources. The challenge we have had is that our communities along the proposed route don't have the capacity to hire the scientific and legal assistance that we need to raise so many of the central issues that we are just beginning to uncover now. The fact that it seems "late in the game" is due to this lack of capacity and our hope that we would have received more assistance in our efforts and pleas to gain assistance to review and raise questions and issues as outlined in this letter and in the LaPlaca Report.

The sponsorship of Public Hearings is not only within the purview of your Department, it is your responsibility to hold them, particularly when there is information that you lack in order to make a fully informed decision on this ACP Proposal. As you know, this is not a "normal" and typical application. The ACP has very serious implications, many of which are identified in the last five pages and final section of the LaPlaca Report. We in the community know that intense pressure that you are under from big business, both in and outside of the said names of the ACP owners but not out of their reach. If our Governor and State are willing to advocate and legally defend our State from off-shore drilling, the same seriousness, review, and advocacy is needed to protect the absolutely, most vulnerable environment in our state and its most vulnerable. This has been my life calling and ministry for 45 years. In the end, it will be a lot easier for the State to defend the environment of our State and win that challenge in court than it will be for environmental organizations to be the litigant against the State in court. You have legal grounds to question and challenge the scale and scope of the proposed pipeline that have yet to be explored. There is still time and valid, reliable, and legal standing to do so.

The "silent majority" of most of our residents along the proposed pipeline route want the NC DEQ and Governor to take all the time available by law to make the most informed and objective decision on the ACP permit applications. Based on the scope and scale of the unanswered DFEQ questions that are directly related to water quality and documented in the LaPlaca report and further described on in this letter, we hope that the DEQ will honor our request for three hearings in the most impacted and vulnerable communities within the proposed plans of the Atlantic Coast Pipeline.

Lastly, the inter-faith community in Charlotte is holding a Press Conference next Tuesday, January 30th, to call on Duke Energy to suspend all work on the Atlantic Coast Pipeline for a year in order to begin public/private deliberations on how to set a course for a New Energy Policy in NC based on the goal of reaching 100% renewable energy by 2030. This effort is being led, not by grassroots people, but by professional faith leaders who understand that we will never be able to implement such an energy policy if the plans for the Atlantic Coast Pipeline are not suspended or halted. This appeal and call to enter deliberations together will provide support for your agency's efforts to make the most informed decision possible regarding the proposed pipeline. We invite representatives of the NC DEQ to join us in Charlotte next Tuesday and listen to this call and meet interfaith leaders there and attend the NC Utility Commission's Rate Hike Hearing on Tuesday night, January 30th.

Sincerely,

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Rev. Mac Legerton

Pembroke, NC

PS A copy of this letter with signature is attached.